

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RALPH REED,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 06-445-JJF
	:	
THOMAS CARROLL, Warden, and	:	
ATTORNEY GENERAL OF THE	:	
STATE OF DELAWARE,	:	
	:	
Respondents.	:	

O R D E R

Petitioner Ralph Reed's "Motion to Alter the Judgment" will be denied. (D.I. 31.) A motion for reconsideration should be granted to correct manifest errors of law or fact or to present newly discovered evidence. Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985). Accordingly, a court may grant a motion for reconsideration if the moving party shows one of the following: (1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court issued its order; or (3) the need to correct a clear error of law or fact or to prevent a manifest injustice. Max's Seafood Café v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999) (citing North River Ins. Co. v. CIGNA Reinsurance Co., 52 F.3d 1194, 1218 (3d Cir. 1995)). A motion for reconsideration is not appropriate to reargue issues that the court has already considered and decided. Brambles USA Inc. v. Blocker, 735 F. Supp. 1239, 1240 (D.Del.

1990).

On September 25, 2007, the Court dismissed Petitioner's federal habeas application as time-barred. (D.I. 29; D.I. 30.) In his Motion, Petitioner contends the Court erred by not equitably tolling the limitations period on the basis of his allegation of actual innocence. As an initial matter, the Court notes that the Court of Appeals for the Third Circuit has not yet determined whether a credible claim of actual innocence can equitably toll the AEDPA's limitations period. See, e.g., Horning v. Lavan, 197 Fed. Appx. 90, 2006 WL 2805608, at *4 (3d Cir. Oct. 2, 2006). Additionally, the Court considered, and rejected, the instant "actual innocence" argument when it denied the Petition. To the extent Petitioner suggests that the Court committed a clear error of law, the Court is unpersuaded. Therefore, the Court concludes that Petitioner's argument does not warrant reconsideration of its decision.

Now Therefore, It Is Hereby Ordered that Petitioner's Motion To Alter The Judgment (D.I. 31) is **DENIED**.

January 3, 2008
DATE

Joseph J. Farnsworth
UNITED STATES DISTRICT JUDGE